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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ARNOLD III, TROY G

ART UNIT PAPER NUMBER

3728

DATE MAILED: 11/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,006

Applicant(s)

MAGNUSSON, BIRGIR

Examiner

Troy Arnold

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6 and 7 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claims 4 and 5 are objected to under 37 CFR 1.75(c) as being in improper form because they are multiple dependent claims. Claim 4 cannot be dependent upon claim 3, and claim 5 cannot be dependent upon claims 3 or 4. See MPEP § 608.01(n). Accordingly, claims 4 and 5 have not been further treated on the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 and 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, is the "article or set of articles" the same as "a first article?" "A second article?" Both? In claims 1 and 2, the phrase "in position of a first article" is vague and indefinite – what exactly does this mean? In claim 3, how does the foldable part not cover the first article, to some degree? Claim 6 is generally not understood – what distinct limitations are being recited, i.e. what distinct structure is being claimed? Are first and second articles being positively claimed? This rejection applies to claim 7 as well. The phrase "in position of the...article" is vague and indefinite. The phrase "enabling said second article to be viewed through the first article"

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is unclear as it appears to modify the articles being held, and not the packaging. It is also unclear the articles being held are positively recited in the claims, as above.

Furthermore, the claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hartman. Regarding claim 1, Hartman teaches a packaging for a set of articles including a plastic member with a protruding part 6 wherein the articles are disposed, a perforation 20 in the plastic member, a foldable part 26 of the plastic member, wherein the foldable part 26 will hold an article in position of another article, such as a cosmetic implement. Regarding claim 2, the foldable part 26 includes a protruding part (cavity), which will hold a second cosmetic implement in position of a first cosmetic implement. Regarding claim 3, the foldable part 26 may cover a second article, but not a first. Regarding claim 6, Hartman teaches a method of holding a second article (second cosmetic implement) in a position of a first article (first cosmetic implement), enabling the second to be viewed through the first (as through a cotton swab) where the first is

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placed in a protruding part 6, and said second article is placed in a position of said first article, and where a foldable part 26 holds the second article in position of the first article. (Hartman's package could be used to hold cotton swabs, for example.)

Regarding claim 7, Hartman teaches a method for packaging an article including: placing a first article (a swab) in a protruded part 6 of a package, locating a second article (a second swab) in position of said first article, enabling said second swab to be viewed through said first swab, fold a foldable part 26 of the package to hold the second swab in position of the first, where the foldable part 26 holds the second swab in position of the first swab.

Claims 1, 2, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Campbell et al. Regarding claim 1, Campbell teaches a packaging for a set of articles (shoes) including a plastic member with a protruding part wherein the articles are disposed, a perforation 100 in the plastic member, a foldable part 30 of the plastic member, wherein the foldable part 30 will hold an article in position of another article.

Regarding claim 2, the foldable part 30 includes a protruding part (cavity), which will hold a second shoe in position of a first shoe. Regarding claim 6, Campbell teaches a method of holding a second article in a position of a first article, enabling the second to be viewed through the first (as through a lace eyelet) where the first is placed in a protruding part, and said second article is placed in a position of said first article, and where a foldable part 30 holds the second article in position of the first article.

Regarding claim 7, Campbell teaches a method for packaging an article including:

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placing a first article (a shoe) in a protruded part of a package, locating a second article (a second shoe) in position of said first article, enabling said second shoe to be viewed through said first shoe (as through the eyelet), fold a foldable part 30 of the package to hold the second shoe in position of the first, where the foldable part 30 holds the second shoe in position of the first shoe.

The claims above are rejected, inasmuch as they are understood. There appear to be at least several other references cited but not relied upon which would also read on the claims.

Allowable Subject Matter

Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and also rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Arnold whose telephone number is 703-305-0621. The examiner can normally be reached on Tuesday-Thursday, 9:30-6pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Troy Arnold
Examiner
Art Unit 3728

TGA
10/29/03



Mickey Yu
Supervisory Patent Examiner
Group 3700